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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,738	06/20/2003	Fred Hewitt Smith	081913-0118 BSIL-0116	7377
48329	7590	07/30/2007		
FOLEY & LARDNER LLP 111 HUNTINGTON AVENUE 26TH FLOOR BOSTON, MA 02199-7610			EXAMINER DADA, BEEMNET W	
			ART UNIT 2135	PAPER NUMBER
			MAIL DATE 07/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/600,738

Applicant(s)

SMITH ET AL.

Examiner

Beemnet W. Dada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 34-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/11/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in reply to an amendment filed on May 04, 2007. Claim 17 has been amended. Claims 1-41 are pending.

### *Response to Arguments*

2. Applicant's arguments filed May 04, 2007 have been fully considered but they are not persuasive. Applicant argues that the art on record fails to teach the limitation of the server node 'delivering to each remote node' and agent module for each remote node comprising a 'node specific configuration file'. Examiner disagrees.

3. Examiner would point out that Mishra et al (US 6,523,166 B1) teaches a server node (figure 4, part 49) configured to initialize and install each remote node in the plurality of remote nodes (abstract), including delivering to each node an agent module, said agent module for each remote node comprising a node specific configuration file [column 5, lines 40-65]. It is understood by the examiner that policy recipients (i.e. users/devices) are assigned specific policy objects for installation of application for application deployment (i.e., specific configuration file, column 5, lines 41-65), and accordingly specific applications are installed into each node from the server [column 6, line 63-column 7, line 26].

4. In response to applicant's argument, With respect to claims 11-12 and 32, that Hogg et al, is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Hogg et al discloses a robot that monitors sensors (nodes) for analysis of data [section 13] and therefore is pertinent to the particular problem with which the applicant was concerned.

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5. Examiner asserts that the art on record teaches the claim limitations and therefore the rejection is respectfully maintained.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 3-6, 13-18, 7-10, 19-21, 23-31 and 33 are rejected under 35 U.S.C 103(a) as being unpatentable over Misra et al (US 6,523,166B1) in view of McDaniel et al (US 20030126464 A1) and further in view of Rothschild (US 5,642,394).

8. The rejection is being applied for the same reason as set forth in the previous Office action, pages 2-8, mailed 11/03/2006.

9. Claims 2 and 22 are rejected under 35 U.S.C 103(a) as being unpatentable over Misra et al (US 6,523,166B1) in view of McDaniel et al (US 20030126464 A1) and further in view of Rothschild (US 5,642,394) and further in view of the article by Lian et al ("Time delay modeling and sample time selection for networked control systems").

10. The rejection is being applied for the same reason as set forth in the previous Office action, pages 8-9, mailed 11/03/2006.

11. Claims 11-12 and 32 are rejected under 35 U.S.C 103(a) as being unpatentable over Misra et al (US 6,523,166B1) in view of McDaniel et al (US 20030126464 A1) and further in

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view of Rothschild (US 5,642,394) and further in view of the article by Hogg et al. ("A Photometricity and extinction monitor at the apache point observatory').

12. The rejection is being applied for the same reason as set forth in the previous Office action, pages 9-10, mailed 11/03/2006.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beemnet W. Dada whose telephone number is (571) 272-3847. The examiner can normally be reached on Monday - Friday (9:00 am - 5:30 pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Beemnet W Dada

July 21, 2007

  
KIM VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100